

AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING

DATEAugust 21, 2002
TIME7:00 P.M.
PLACE.....County Office Building
20 N. 3RD Street
Lafayette, IN 47901

MEMBERS PRESENT

Jack Rhoda
Jan Mills
KD Benson
Karl Rutherford
Steve Schreckengast
Stuart Boehning
James Miller
David Williams
Kathy Vernon
John Knochel
Jeff Kessler (arr: 7:15)

MEMBERS ABSENT

Mike Harris
Mark Hermodson
Laura Peterson
Miriam Osborn

STAFF PRESENT

James Hawley
Sallie Fahey
Bernard Gulker
John Burns
Larry Cuculic, Atty.
Julie Holder
Doug Poad
Don Lamb

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 21st day of August 2002, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Jack Rhoda called the meeting to order.

I. BRIEFING SESSION

James Hawley informed the Commission that **Z-2074—DOROTHY M. BOLLOCK (R1 TO R2)** request has been reduced in petition, legal description and ordinances to 5.5 acres.

He informed the Commission that petitioner for case **Z-2081—MIDA DEVELOPMENT GROUP, LLC, (R1 TO R3)** submitted a letter requesting continuance to the October 16, 2002 Area Plan Commission meeting.

He also mentioned that the following cases have been withdrawn:

Z-2075—COPPER BEECH TOWN HOMES COMMUNITIES, LLP.
S-3196—EAGLES NEST FARMS PHASE 1, SECTIONS 1,2 &3.

II. APPROVAL OF MINUTES

Steve Schreckengast moved to approve the minutes of the July 17, 2002 public hearing. Karl Rutherford seconded.

Jan Mills mentioned a correction was needed in the July 17, 2002 minutes. She stated that Jack Rhoda called the July meeting to order, not her.

Jack Rhoda instructed the secretary to make the correction before the minutes are finalized.

The motion was carried by voice vote.

II. NEW BUSINESS

- A. Steve Schreckengast moved to approve **RESOLUTION T-02-5: FY 2003 TRANSPORTATION IMPROVEMENT PROGRAM.** Dave Williams seconded the motion.

James Hawley read staff's comments.

Jack Rhoda asked for speakers and or comments from the audience. He then asked for comments from the commissioners.

The Commission voted by ballot 10 yes – 0 no on **RESOLUTION T-02-5.**

- B. Steve Schreckengast moved to approve **RESOLUTION T-02-6: FY 2003 AIR QUALITY ASSURANCE.** Dave Williams seconded the motion.

James Hawley read staff's comments.

Jack Rhoda asked for speakers and or comments from the audience. He then asked for comments from the commissioners.

The Commission voted by ballot 10 yes – 0 no on **RESOLUTION T-02-6.**

- C. Steve Schreckengast moved to hear and vote on **RESOLUTION PD 02-08: COLONY PINES PLANNED DEVELOPMENT (Z-2064).** Dave Williams seconded the motion.

with Bernard Gulker mentioned an error in staff report. In the last sentence of the second paragraph, the report read 40 duplex lots and 80 units. The correct amount should read 48 duplex lots and 96 units. He then read staff's report, recommendation for approval.

Alan Daniel Teder, representing petitioner, PO Box 280 Lafayette, IN, stated that White, the developer of the project, was present and could answer questions if needed. He asked for approval.

from Daniel Jack Rhoda asked if there were any speakers, either in favor or opposition, the audience. He then asked if the Commissioners had any questions for Teder.

The commission voted by ballot 11 yes – 0 no on **RESOLUTION PD 02-08: COLONY PINES PLANNED DEVELOPMENT (Z-2064).**

IV. PUBLIC HEARING

Jack Rhoda read the meeting procedures.

Steve Schreckengast moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. David Williams seconded and the motion carried by voice vote.

A. ORDINANCE AMENDMENTS

Steve Schreckengast moved to hear and approve **UZO AMENDMENT #31.** Karl Rutherford seconded and the motion was carried by voice vote.

Bernard Gulker read staff comments, with recommendation for approval.

Jack Rhoda asked if any one in the audience wanted to speak or if there were any questions from the Commissioners.

KD Benson questioned the septic discussion for residential.

James Hawley stated there is a substantial amount of R1, R1A, R2, R1B, R3 zoning that does not have access to sanitary sewer. He then stated that the Board of Health requires 30,000 square feet, and the Zoning Ordinance only requires 15,000 square feet.

Jan Mills asked if the Board of Health already required this square footage.

James Hawley replied yes.

The commission voted by ballot 11 yes – 0 no on **UZO AMENDMENT #31.**

B. REZONING ACTIVITIES

Steve Schreckengast moved to continue **Z-2081—MIDA DEVELOPMENT GROUP, LLC (R1 TO R3)** to the October 16, 2002 Area Plan Commission meeting. Dave Williams seconded and the motion was carried by voice vote.

Jack Rhoda reiterated that **Z-2075—COPPER BEECH TOWN HOMES COMMUNITIES** and **S-3196—EAGLES NEST FARMS PHASE 1, SECTIONS 1,2 &3** have been withdrawn.

1. **Z-2074—DOROTHY M. BOLLOCK (R1 TO R2):** Petitioner is requesting the rezoning of 5.5 acres on the west side of S. 9th Street about ¼ mile south of CR 350 S across from Waterstone at Valley Lakes in the City of Lafayette, Wea 8 (SE) 22-4.

Steve Schreckengast moved to hear and approve the above-described request. Dave Williams seconded the motion.

Bernard Gulker read staff comments and an addendum, including changing the above acres from 11.773 to 5.5 acres, with a recommendation for denial.

James Hawley presented slides of the location map, aerial photograph and flood plain map. He also reiterated staff's recommendation of denial.

Charles Vaughan, representing the petitioner, PO Box 498 Lafayette, IN 47902, pointed out on the map where the development would be located and presented a rendering of site plan. He discussed lower density of the development and conveyed his frustration with the Area Plan Commission.

Jack Rhoda asked for any comments from the audience speaking in favor or in opposition.

Dane Heath 1023 Stoneripple Circle, in the Waterstone subdivision, spoke in opposition and presented a petition signed by 248 residents against the rezone. He expressed concern for traffic safety on 9th Street. He stated that an R2 zoning would disrupt the single-family home neighborhood. He stated that schools are too crowded, and this development would require additional schools. He also said that the heavily traveled bridge on 9th Street would create visual limitations. He concluded by stating that a rezone of R2 would be detrimental and hazardous to the neighborhood. He then requested the Commission to deny the request.

Charles Vaughan stated he understood Dane Heath's concerns, but he felt that they are misplaced. He stated that the City of Lafayette has already approved this road location to be proper and safe. He said that he has met with the neighborhood leader and was reassured that they would support this request. He questioned the accuracy of the 248 names on the petition that are in opposition.

The Commission voted by ballot 6 yes – 5 no.

Yes Votes

Steve Schreckengast
Jack Rhoda
James Miller

No Votes

Kathy Vernon
Jeff Kessler
John Knochel

Karl Rutherford
 Dave Williams
 Stuart Boehning

Jan Mills
 KD Benson

Steve Schreckengast moved to send this request on to City Council of Lafayette with no recommendation due to an inconclusive vote. Dave Williams seconded and the motion was carried by voice vote.

2. Z-2078—ROBERT CUMMINGS (R1 TO A):

39) Petitioner is requesting the rezoning of 2.95 acres (Parcel B in P83- located southwest of Wea Woodlands Subdivision at 6420 Wea Woodlands Drive, Wea 30 (SE) 22-4. CONTINUED FROM THE JULY MEETING AT PETITIONER'S REQUEST.

Steve Schreckengast moved to hear and approve the above-described request. Dave Williams seconded.

Bernard Gulker read staff comments and addendum with a recommendation of approval.

Bernard Gulker read a letter, accompanied by pictures, from Ellen Lutterloh, 6258 Wea Woodland Drive Lafayette, IN, opposing the rezone.

James Hawley presented slides of the location map and aerial photograph. He reiterated staff's recommendation of approval.

Joseph T. Bumbleburg, representing the petitioner, PO Box 1535 Lafayette, IN 47902, presented a petition in favor of the rezone, signed by 23 area residents. He stated there is a total of 25-26 residents in the subdivision. He stated this is an A zone by all standards and measures. He stated that no customers visit the home, all work is done off-site and equipment is kept in a pole barn. He stated the concern that a mobile home may be added in the future is remote, because it is not feasible to tear down an existing home. He mentioned that petitioner is a good neighbor, and asked all supporters in the audience to stand.

Members of the audience stood.

He asked for a favorable recommendation from the Commission.

John Knochel asked how long Robert Cummings had lived there.

Joseph T. Bumbleburg stated Robert Cummings had lived there since 1998.

Jack Rhoda asked for comments from the audience in favor of the petition.

Dan Lutsko, 6423 Wea Woodland Drive, stated Robert Cummings is a good neighbor; his house and grounds are immaculate and he runs his business very professionally. He said that this business does not intrude on neighbors.

Patrice Bell, 6433 Wea Woodland Drive, confirmed that Robert Cummings built home in 1998, which is when most of the houses went up, and that all of the land used to be farmland. She said that his house only brings up the value of neighboring homes. She added that Robert is a good neighbor; he coordinated the residents and paved the road.

Doug Hession, 401 Wea Woodland Drive South, stated that his property makes up the northern border of Robert Cummings property. He said that he is a good neighbor and has brought up the property value of neighboring homes and is on a private drive.

Jack Rhoda asked for comments from the audience in opposition of the petition.

Darlene Smith, 6430 Wea Woodlands Drive, stated her concerns of an A zone, in the quality of water due to chemical leaks into well water supply. She said that Robert Cummings uses water continually due to the nature of his business and this puts the wells at risk of running dry. She stated that since 1995, there have been several wells in the area that have run dry. She mentioned that she lives south of the residence and there is a slope involved, which increases this risk. She requested that the Commission deny the request.

Joseph T. Bumbleburg replied that the chemicals in question are ones that Robert Cummings uses on his own yard, and there is very little risk of contamination. He also stated that Robert Cummings keeps a minimal amount of supply in stock because the business is small.

Jack Rhoda asked for questions from the commissioners.

Jeff Kessler stated that since being able to put a mobile home on the property is very remote, and the possibility of subdivision probably would not happen, then he would be in favor of this rezone. He said that he is not at all in favor of spot zoning, generally speaking. He continued to say that, so long as the neighbor's understand the rezone, he is in favor.

The Commission voted by ballot 11 yes – 0 no to recommend approval of **Z-2078—ROBERT CUMMINGS (R1 TO A)** to the County Commissioners.

3. Z-2079—MIKE AULBY'S ARROWHEAD BOWL (I3 TO GB):

Petitioner is requesting the rezoning of a 1.0 acre tract located southeast of the stub end of Brothers Drive, 2331 Brothers Drive, Lafayette, Fairfield 34 (SW) 23-4.

CONTINUED FROM THE JULY

MEETING.

Steve Schreckengast moved to hear and vote on the above-described request. Dave Williams seconded.

Bernard Gulker read staff comments with a recommendation of approval.

James Hawley presented slides of the location map and aerial photograph. He also reiterated staff's recommendation of approval.

Joseph T. Bumbleburg, representing the petitioner, PO Box 1535 Lafayette, IN 47902, stated the petitioner concurred with the staff report. He reiterated that recent history has shown this area slowly being rezoned from industrial to GB. He asked for a favorable recommendation from the Commission.

Jack Rhoda asked for comments from the audience.

Karl Rutherford asked what the SIC Code is for a bowling alley. He stated that if it was a certain code, this entire point would be moot.

Sallie Fahey stated that bowling centers are SIC 793, therefore it does need to proceed.

The Commission voted by ballot 11 yes – 0 no to recommend approval of **Z-2079—MIKE AULBY'S ARROWHEAD BOWL (I3 TO GB)** to the Lafayette City Council.

4. Z-2080—GEORGE & RUBY TSAO, TRUSTEES (A TO R1):

Petitioners are requesting the rezoning of 25.654 acres located at the southwest corner of CR 450 N and CR 300 W, Wabash 34 (SE) 24-5.

Steve Schreckengast moved to hear and approve the above -described request. Dave Williams seconded.

Bernard Gulker read staff comments with a recommendation of approval.

James Hawley presented slides of the location map and aerial photograph. He also reiterated staff's recommendation of approval.

Jack Rhoda requested petitioner to speak.

Joseph T. Bumbleburg, representing the petitioner, PO Box 1535 Lafayette, IN 47902, stated this petition is correcting a technical error. He asked for a favorable recommendation from the Commission.

Jack Rhoda asked for comments from the audience and questions from the Commissioners.

The Commission voted by ballot 11 yes – 0 no to recommend approval of **Z-2080—GEORGE & RUBY TSAO, TRUSTEES (A TO R1)** to the County Commissioners.

C. SUBDIVISIONS

1. S-3189—HUNTINGTON FARMS SUBDIVISION, PH. 3 & 4 (MAJOR-PRELIMINARY): Petitioner is seeking primary approval for a 90-lot single-family subdivision on 39.78 acres. The site is located between Lindberg Road and SR 26 W, just west of the existing Huntington Farms subdivision, in Wabash 15 (NW) 23-5. CONTINUED FROM THE JULY MEETING.

Steve Schreckengast moved to hear and vote on the above-described request. Dave Williams seconded.

Sallie Fahey stated that the file was not complete and proofs of publication, affidavits and receipts from the post office were not submitted.

Jack Rhoda asked if that warranted a dismissal or a continuance.

Dave Schrader 2121 South 7th Street, Lafayette, IN, stated they had published in May and he was not aware they needed to be republished for this hearing.

James Hawley stated that proofs of publication were always needed, for every hearing.

Sallie Fahey stated that they were published once, for the June meeting but no proofs of publication had been filed.

Discussion ensued on lack of documentation.

Jack Rhoda requested attorney, Larry Cuculic, to advise petitioners and Commission on the next step.

Larry Cuculic asked Sallie Fahey what the file was lacking.

Sallie Fahey replied that the petitioners were short: two proofs of publication, a sign posting affidavit, an affidavit of mailing to interested parties and receipts from the post office regarding that mailing.

Larry Cuculic advised the petitioners they should request a continuance to the September 18, 2002 meeting.

Dave Schrader made that request.

Steve Schreckengast moved for continuance of **S-3189—HUNTINGTON FARMS SUBDIVISION, PH. 3 & 4 (MAJOR-PRELIMINARY)** to the September 18, 2002 Area Plan Commission meeting, Dave Williams seconded and motion was carried by voice vote.

2. S-3205—ROMNEY RUN, PHASE III (MAJOR-PRELIMINARY):

Petitioner is seeking primary approval for a 53-lot phase of the subject single-family subdivision on 12.34 acres. The site is located north of CR 300 S, east of US 231, Wea 6 (SW) 22-4.

Steve Schreckengast moved to hear and vote on the above-described request. Dave Williams seconded.

Bernard Gulker read staff comments with recommendation for conditional primary approval, contingent on the following conditions:

A. Conditions

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

1. The Lafayette City Engineer shall approve the sanitary sewer, water and drainage plans.
2. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District.
3. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

4. A "No Vehicular Access" statement shall be platted along the US 231 right-of-way line.
5. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
6. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
7. All required building setbacks shall be platted.
8. The street addresses and County Auditor's Key Number shall be

shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

9. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

James Hawley presented slides of the location map, aerial photo and plat. He reiterated staff's recommendation for primary conditional approval.

Marianne Owen, representing the petitioner, stated she concurred with staff's report and her client understands and accepts the conditions. She stated that this is an extension of an existing development and requested approval and bonding approval.

Dwayne Mantic, 203 Plantation Way, Lafayette, IN, expressed his concern of the lack of an additional exit, and increased traffic, especially since 300 S is not currently open to US 231. He stated that this development would also increase the number of children playing in the road, and thus increase traffic safety hazards. He said that the notification sign has been up for two weeks, and asked if this was proper notification. He requested a continuance until the rest of the neighborhood can be made aware.

Marianne Owen reiterated that the Area Plan staff has reviewed this development and approves. She stated that this development is consistent with the existing development. She pointed out that the roads are curved and there is jogging to prevent this from being the speedway that residents are concerned about. She said that this development has been planned as a family development, and confirmed they are hoping for a Phase 4 in the future.

Jack Rhoda asked if it was accurate that there is only one entrance to the development, until Phase 4 is built.

Discussion moved to entrances on US 231.

Brian Keene 2453 Musket Way, West Lafayette, IN, stated that there is one entrance into this phase, but two entrances in the existing phases.

Steve Schreckengast asked for confirmation that this development has been through due process and been approved by the Fire Department and Public Safety departments.

Marianne Owen confirmed that it had.

Sallie Fahey stated that all parts of Romney Run subdivision also connect with all of the subdivisions to the north. She said that as these areas were developed, generally, all of their internal roads connect. These connecting developments also have entrances to Romney Road.

James Miller asked if the signs had been properly posted.

Marianne Owen stated that the ordinance requires the sign be posted 10 days in advance of the hearing. She said that had been accomplished and James Hawley could verify.

James Hawley confirmed that signs were posted at both locations required, and that documentation was properly submitted to Area Plan office.

Maryanne Owen stated that in addition to the signs, letters to interested parties were sent out, within the proper time frame.

The Commission voted by ballot 11 yes – 0 no to grant conditional primary approval on **S-3205—ROMNEY RUN, PHASE III (MAJOR-PRELIMINARY)** and 11 yes to 0 no on bonding.

V. ADMINISTRATIVE MATTERS

James Hawley introduced Michelle D'Andrea as the new recording secretary.

James Hawley stated that in the Robert Cummings case, it was probable that he had received a verbal O.K. from a staff member under the repealed ordinances prior to 1998, and the new ordinance. He said that he encourages customers to receive all staff opinions in written form.

James Hawley mentioned that in regard to the Romney Run case, CR 300 South will never be opened because it is too close to CR 350 and CR 275. He stated it is an inappropriate entrance to US 231. He said there is an intention, in the Thorough-far plan amendments, to turn CR 300 S into a minor arterial and connect it to CR 350. He pointed out that this would be a development requirement on the south side of CR 300, not on the property in question. He stated that INDOT closed CR 300 to US 231 when CR 350 was connected and US 231 was opened.

VI. APPROVAL OF THE AUGUST 2002 EXECUTIVE COMMITTEE AGENDA

Steve Schreckengast moved that the September 4, 2002 Executive Committee Agenda be approved as submitted. Dave Williams seconded and the motion was carried by voice vote.

Steve Schreckengast moved to approve the following Determination of Variances:

BZA – 1616 WEST LAFAYETTE COMMUNITY SCHOOL CORPORATION.

BZA – 1617 VINTAGE APARTMENTS, LLC.

BZA – 1619 CINDY GREEN.

BZA – 1620 WILDCAT WILDLIFE CENTER, INC.

BZA – 1623 DAMIR URMEYER.

Dave Williams seconded and motion was carried by voice vote

Steve Schreckengast moved that the sign ordinance be strictly adhered to for
BZA- 1616 WEST LAFAYETTE SCHOOL CORPORATION. Dave Williams
seconded and motion was carried by voice vote.

VII. DIRECTORS REPORT

None

VIII. CITIZENS' COMMENTS AND GRIEVANCES

Dwayne Mantic, 203 Plantation Way, Lafayette, IN, stated that when he purchased his land, one of the selling features was that CR 300 would be connected to US 231 in the future. He requested documentation of James Hawley's statement.

Jack Rhoda advised Dwayne Mantic to work with Area Plan staff for that documentation. He reiterated James Hawley's comment that there is a possibility of a developer extending CR 300 in the future.

Dwayne Mantic clarified that at the time he bought his home the CR 350 extension did not exist.

Steve Schreckengast asked if the connecting roads to the new US 231 had been determined at the time Romney Run was first started.

James Hawley stated that the determination of those roads might not have been made, because Romney Run came first.

Steve Schreckengast stated he understood that those determinations had not been made. He said that later the determination was made that CR 300 would not be connected.

Dwayne Mantic stated that was why he was asking for documentation.

James Hawley referred him to the County Attorney's office, as there are pending lawsuits regarding these roads.

John Knochel stated that where county roads that intersect with state roads, INDOT automatically controls.

James Hawley stated that at the time Romney Run was started, US 231 was not even on the horizon. He said only INDOT has the authority to close an intersection, at their discretion.

Dwayne Mantic requested documentation and guidance on the pending lawsuits that James Hawley mentioned.

Jack Rhoda stated he would have to contact the County Attorney's office.

Jeff Kessler stated his request to the Ordinance Committee that they reconsider the budget and fee structure. He said his main concern was to have subdivisions pay for their own sirens and emergency systems. He also suggested moving the cost onto the developers.

Jack Rhoda stated that he would ask the Chair of the Ordinance Committee to put that on the agenda, however the Ordinance Committee had a lot on its plate right now.

Jeff Kessler expressed his understanding and thanked the committee for the consideration.

X. ADJOURNMENT

Steve Schreckengast moved that the meeting be adjourned. Dave Williams seconded and the motion carried by voice vote.

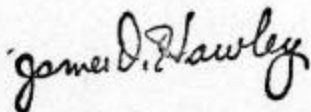
The meeting was adjourned at 8:45 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



James D. Hawley, AICP
Executive Director